

HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 32252 of 1997

Dated 23rd April, 2007

Between

N.Phani

...Petitioner

and

The superintendent of Police,
Guntur District, Guntur, and, anr

...Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 32252 of 1997

ORDER:

The petitioner, who claims to be the secretary of C.P.I.M.L.(New Democracy), filed this Writ Petition seeking Writ of Mandamus to declare the action of the respondents in demolishing the monument at Chuttugunta center, Guntur as illegal and arbitrary.

It is stated in the affidavit filed in support of the Writ Petition that C.P.I.M.L.(New Democracy) is working for the welfare of the down trodden and for the up-liftment of the poor people and they have party office in the colony at Chuttugunta in Guntur District. It is stated that in year 1992, two party leaders, by name, Sri Angodi Punniiah and Sri Devarasitti Shankar were murdered at Chuttugunta center. It is further stated that as much as the said leaders of the party had worked for

down trodden, they constructed memorial at Chuttugunta in memory of the said leaders. It is the grievance of the petitioner that though the construction of said memorial is not at all causing obstruction to the traffic and people, but however, on the intervening night of 29/30 October, 1997 at about midnight, 300 police personnel came to Chuttugunta center and demolished the said memorial high handedly and without any authority. It is the case of the petitioner that though there was no protest from any corner for constructing the said memorial, the respondents have dismantled the same arbitrarily and illegally. It is submitted by the learned Counsel for the petitioner that in spite of submitting representation to rebuild the memorial, no action was taken by the respondents.

Counter affidavit is filed on behalf of the respondents, stating that two persons, namely, Sri Angadi Punnaiah and Sri Devarasetti Sankar were killed at Chuttugunta in Guntur and a case in Crime No. 198/1992 under Sections 147, 148, 307, 302 r/w. 149 IPC, and, Sections 3 and 5 of the Explosive Substances Act of Nagarapalem Law and Order Police Station is pending trial. Further, with regard to allegation of the petitioner that the respondents through their subordinates dismantled the said memorial, the respondents denied such allegation. It is further stated that for the said construction, no permission was granted by any competent authority i.e. either Roads and Buildings Department or the Municipal Corporation. Though counter affidavit is filed denying the allegations of the petitioner, but however, the same is not controverted by the petitioner by filing any reply affidavit.

First of all, it is to be seen that, for construction of such memorial,

there is no permission obtained by the petitioner from any competent authority. In any event, as against the denial of the allegations of the petitioner that the said memorial is dismantled by the respondents through their subordinates, no reply affidavit is filed controverting the same. There is also no material in support of the allegations of the petitioner. More over, on the basis of the pleadings, a disputed question of fact as to who had dismantled the memorial arises, which cannot be gone into in this case. Therefore, in absence of any permission for construction and further in absence of any material to show that the respondents have dismantled the said memorial, it is not possible for this Court to record any finding, in this petition filed under Article 226 of the Constitution of India.

The Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATE: 23-4-2007.
Msnr.